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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 STARR INDEMNITY & LIABILITY
11 INSURANCE COMPANY,

12 Plaintiff,

13 v.

14 ROSS ISLAND SAND & GRAVEL CO.,

15 Defendant.
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Case No. 2:21-cv-00791-KJM-DB

THIRD JOINT STIPULATION TO
CONTINUE PRE-TRIAL AND
DISCOVERY RELATED DEADLINES;
ORDER

1 Plaintiff Star Indemnity & Liability Insurance Company (“Plaintiff” or “Starr”) and
2 Defendant Ross Island Sand & Gravel Co. (“Defendant” or “Ross Island” and collectively with
3 Plaintiff as the “Parties”) hereby stipulate to continue all pre-trial and discovery related deadlines,
4 and respectfully request that the Court re-set the case schedule pursuant to the minute order
5 (Dkt. #14) as proposed and agreed to below.

6 The Parties proffer the following reasons as good cause for this Stipulation and Proposed
7 Order:

8 1. On May 3, 2021, Plaintiff filed the instant lawsuit in this Court for declaratory relief
9 against Defendant under the doctrine of *uberrimae fidei* (the “Lawsuit”).

10 2. On August 20, 2021, the Parties submitted a Joint Status Report as required by the
11 Court’s standing order (ECF No. 2, ¶ 4), Local Rule 240(b), and Federal Rule of Civil Procedure 26
12 (Dkt. #11).

13 3. On September 16, 2021, the Court issued its Scheduling Order setting all discovery
14 and trial-related dates (Dkt. #14).

15 4. On October 15, 2021, Plaintiff served Defendant with Request for Production of
16 Documents, Set One.

17 5. On October 21, 2021, Defendant served Plaintiff with Request for Production of
18 Documents, Sets One through Four.

19 6. On November 12, 2021, Defendant timely served responses and objections to
20 Plaintiff’s requests. Defendant also produced responsive documents.

21 7. On December 21, 2021, after an agreed upon extension, Plaintiff served responses
22 and objections to Defendant’s requests. Plaintiff also produced responsive documents, and as
23 Plaintiff believed that some of the documents contained confidential and proprietary information,
24 Plaintiff agreed to provide these documents upon execution of an agreed protective order.

25 8. On January 24, 2022, Plaintiff produced further responsive documents to Defendant
26 and following that date, the parties reached agreement as to a Stipulated Protective Order, which
27 the Court approved on February 8, 2022 (Dkt. #17).
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1 9. The Parties engaged in meet and confer efforts on a discovery disagreement
2 including the scope of requested documents with respect to Set Four. On February 16, 2022
3 (Dkt. #19), the Court approved the Parties' Stipulation to Continue Pre-Trial Discovery Related
4 Deadlines.

5 10. On May 31, 2022 (Dkt. #38), the Court denied Defendant's Motion to Compel, but
6 encouraged the parties to "engage in further meet and confer efforts in an attempt to resolve this
7 dispute."

8 11. On June 2, 2022, the Parties agreed to engage in further meet and confer efforts on
9 the scope of Defendant's prior documents requests and agreed to take certain percipient witness
10 depositions and then schedule a mediation in the latter part of 2022.

11 12. Since June 2022, the parties have been engaging in meet and confer efforts regarding
12 the above discovery dispute. The parties have also scheduled depositions during the month of
13 October.

14 13. The parties are in the process of scheduling mediation with a target for the first full
15 week of December.

16 14. In mid-September 2022, counsel for Ross Island suffered a significant injury that
17 will require surgery and considerable recovery time. The Parties anticipate continuing to make
18 progress during counsel's recovery but require additional time to complete discovery as a result.

19 15. Accordingly, the Parties agree that additional time is needed to prepare this case for
20 trial. Extending all discovery related dates by approximately sixty (60) days will permit the Parties
21 to engage in discovery and then attend mediation before a private mediator to resolve the case
22 before completing all non-expert and expert discovery in this action. This will also permit the
23 Parties time to resolve all outstanding discovery disputes either by stipulation or motion practice.
24 The extension will also allow the Parties to fully develop their claims, counterclaims, and defenses
25 for trial if necessary.
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16. Accordingly, the Parties request the following modifications to the schedule:

Order [Dkt. #40]	Current Deadline	Proposed Deadline
Close of Non-Expert Discovery	January 27, 2023	March 25, 2023
Disclosure of Experts and Exchange of Expert Reports	February 24, 2023	April 21, 2023
Responsive Expert Disclosures and Reports	March 22, 2023	May 17, 2023
Rebuttal Expert Disclosures and Reports	April 12, 2023	June 7, 2023
Close of Expert Discovery	May 26, 2023	July 21, 2023
Dispositive Motion Deadline (<u>Heard</u> by)	June 15, 2023	August 10, 2023

17. Currently there is no trial date scheduled for this matter.

18. There have been two prior continuances to these discovery deadlines. The Parties will not be prejudiced by this continuance. To the contrary, the proposed continuance would allow the Parties to efficiently resolve the action by mediation, or if necessary, to prepare this case for trial. While the Parties are not requesting any changes to the deadline for private mediation, which is currently set for March 10, 2023 (Dkt. #19), as noted above, the parties have agreed to schedule the mediation for the latter part of 2022.

Dated: October 5, 2022

STOEL RIVES LLP

By: /s/ Michael B. Brown

Thomas A. Woods
Michael B. Brown
Attorneys for Defendant
Ross Island Sand & Gravel Co.

Dated: October 5, 2022

GIBSON ROBB & LINDH LLP

By: /s/ Michael J. Cummins (authorized via email)

Michael J. Cummins
R. Hudson Hollister
Attorneys for Plaintiff
Starr Indemnity & Liability Company

ORDER

Having read the Parties' Third Joint Stipulation to Continue Pre-Trial and Discovery-Related Deadlines for approximately sixty (60) days, the Parties have shown good cause to continue all dates listed above as stipulated. The Parties' request for continuance is hereby GRANTED.

IT IS HEREBY ORDERED THAT:

1. The non-expert discovery cutoff is continued to March 25, 2023.
2. The expert disclosure deadline is continued to April 21, 2023.
3. The responsive expert disclosures and reports deadline is continued to May 17, 2023.
4. The rebuttal expert disclosures and reports deadline is continued to June 7, 2023.
5. The expert discovery cutoff date is continued to July 21, 2023.
6. The deadline in which all dispositive motions must be heard by is continued to August 25, 2023.

IT IS SO ORDERED.

DATED: October 13, 2022.


CHIEF UNITED STATES DISTRICT JUDGE